

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA**  
Alexandria Division

<b>UNITED STATES OF AMERICA,</b>	:	
	:	
<b>v.</b>	:	<b>Criminal Case No. 1:18-CR-457 (AJT)</b>
	:	
<b>BIJAN RAFIEKIAN, et al.</b>	:	

**DEFENDANT BIJAN RAFIEKIAN’S NON-CONFIDENTIAL SUPPORTING  
MEMORANDUM IN SUPPORT OF MOTION FOR LEAVE TO FILE UNDER SEAL**

Pursuant to Local Criminal Rule 49(D), Defendant, through counsel, respectfully moves the Court for leave to file his Memorandum of Law in Support of Motion to Dismiss the Indictment and Exclude and Suppress Privileged Information and certain accompanying exhibits under seal. For the reasons set forth below, these documents should be kept under seal to protect the attorney-client privilege.

**I. THE MATERIALS SHOULD BE SEALED**

The Court has inherent power to seal submitted materials. *See In re Knight Pub. Co.*, 743 F.2d 231, 235 (4th Cir. 1984) (“The trial court has supervisory power over its own records and may, in its discretion, seal documents if the public’s right of access is outweighed by competing interests.”).

On March 5, 2019, the Defendant served subpoenas (“Subpoenas”) on non-party attorneys Covington & Burling (“Covington”) and Kristen Verderame pertaining to their representation of Flynn International Group (“FIG”). Covington and Verderame filed motions to quash, and on April 9, 2019, the Court denied the motions. [ECF No. 101]. In its April 9 order, the Court noted, “because some of the subpoenaed documents may remain privileged as to third-parties, the Court will order that Covington’s and Verderame’s productions be subject to a

protective order to be agreed upon by the parties, with any issues in that regard brought promptly to the Court's attention." [ECF No. 101 at 12-13].

Attorneys for Covington and the Defendant were unable to agree on the terms of a proposed protective order, and on April 24, 2019, each submitted a proposed protective order to the Court for its review. The Court has not yet ruled on scope of the appropriate protective order. Each of the proposed protective orders, however, contemplate that documents produced pursuant to the Subpoenas (and any filings that mention the contents of those documents) should be filed under seal, and that the filing of such documents and information under seal shall not result in a waiver of the attorney-client privilege.

Defendant has filed a Motion to Dismiss the Indictment and Exclude and Suppress Privileged Information ("Motion"). The brief ("Brief") accompanying the Motion quotes from and attaches as exhibits two documents, Exhibits B and F, that were produced by Covington to the Defendant pursuant to the Subpoenas ("Covington Documents"). The Court should permit the unredacted Brief and the Covington Documents to be filed under seal so as to preserve any attorney-client privilege associated with the Covington Documents. The remainder of the Motion and Brief, including supporting exhibits, has been publicly filed in redacted form.

## **II. PERIOD OF TIME SOUGHT TO HAVE MATTER REMAIN UNDER SEAL**

Defendant requests that the materials to be filed under seal remain sealed until further order of the Court.

For the foregoing reasons, Defendant respectfully requests that the Court enter an order allowing Defendant to file his Memorandum of Law in Support of Motion to Dismiss the Indictment and Exclude and Suppress Privileged Information under seal.

Dated: May 28, 2019

Respectfully submitted,

/s/

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**CERTIFICATE OF SERVICE**

I hereby certify that, on the 28th day of May 2019, true and genuine copies of Defendant Rafiekian's Non-Confidential Supporting Memorandum were sent via electronic mail by the Court's CM/ECF system to the following:

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